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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,909	03/23/2007	Martin Adrian Lee	13058N/061073	5075

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STITES & HARBISON PLLC
401 COMMERCE STREET
SUITE 800
NASHVILLE, TN 37219

EXAMINER

KRUER, STEFAN

ART UNIT	PAPER NUMBER
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3654

MAIL DATE	DELIVERY MODE
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03/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/583,909	Applicant(s) LEE, MARTIN ADRIAN	
	Examiner Stefan Krueer	Art Unit 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 15 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 - 4 and 6 - 15 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>20 June 2006</u> . | 6) <input checked="" type="checkbox"/> Other: <u>Machine Translation: JP-2001182629.</u> |

DETAILED ACTION

Specification

Abstract

This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Title

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Hydraulic Lifting Ram with integrated Counterbalance

Disclosure

The disclosure is objected to because of the following informalities: On Page 10, Line 22, the term “seal” is used interchangeably with the term “slider”, for which both have the same numerical designation. Though the slider is understood to act as a sliding seal, the use of the terms “seal” and “slider” for the same element is improper.

Appropriate correction is required.

Claim Objections

Claim 10 is objected to because of the following informalities: Commencing in Line 1, the articles prior to “hydraulic lift” and “hydraulic ram” are missing and improper, respectively. Appropriate corrections are required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9 and 14 - 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 9 and 14 recite the limitation "the" in "the weight". There is insufficient antecedent basis for this limitation in the claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 4, 6 - 8 and 10 - 15 rejected under 35 U.S.C. 102(b) as being anticipated by Hasegawa et al (JP 2002372008 A).

Re: Claim 1, Hasegawa et al disclose a lift (1) including a load carrier (3):

- a hydraulic ram (17, Fig. 1) operable to displace said load carrier in a substantially vertical direction; and
- a counterbalance (As, Ar, 12, 27, 29 – 33, Para. 0019 – 0021, Machine Translation) operable to reduce the load imposed by said load carrier on said hydraulic ram,
- said lift being characterized in that said counterbalance includes a chamber (As) of substantially constant volume housing a pressurized fluid.

Re: Claim 2, Hasegawa et al disclose wherein said counterbalance is stroke-based (Para. 0019).

Re: Claim 3, Hasegawa et al disclose wherein said counterbalance is formed in unit with the hydraulic ram.

Re: Claim 4, Hasegawa et al disclose wherein said counterbalance includes an annular chamber (for 19) provided about said hydraulic ram.

Re: Claims 6 – 7 and 13, Hasegawa et al disclose wherein said pressurized fluid comprises a pressurized gas, said pressurized gas comprising nitrogen (Para. 0019).

Re: Claim 8, Hasegawa et al disclose wherein said counterbalance is constructed and arranged to provide a counterbalance effect of less than the weight of said load carrier (Para. 0009).

Re: Claim 10, Hasegawa et al disclose a drive unit (including 7, 21, 13, Hs, 17), said drive unit including a hydraulic ram (11, 17) having a cylinder (11) and a piston (17) extendible and retractable with respect to said cylinder, said unit having a counterbalance (As, Ar, 27, 29 – 33) integral with said hydraulic ram, said counterbalance including a chamber (As) of substantially constant volume housing a pressurized fluid.

Re: Claim 11, Hasegawa et al disclose wherein said chamber of substantially constant volume is annular in form and arranged about the axis of said cylinder.

Re: Claim 12, Hasegawa et al disclose wherein said chamber is defined, in part, by said piston and by said cylinder.

Re: Claims 14 - 15, Hasegawa et al disclose:

- A method of reducing the power requirement of an hydraulic lift (Para. 0050 – 0051) which includes a load carrier and an hydraulic ram operable to displace said load carrier in a substantially vertical direction, said method including positioning a counterbalance so as to reduce a load imposed by said load carrier on said hydraulic ram, said counterbalance including a chamber of substantially constant volume housing a pressurized fluid.

- A method as claimed in claim 14 further including providing said counterbalance in unit with said hydraulic ram.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hasegawa et al in view of Veletovac (6,422,349).

Hasegawa et al are silent with respect to a percentage of a weight of their load carrier that their counterbalance is configured to provide.

Attention is directed to Veletovac who teaches his counterbalance affording 90% of a weight of their load carrier for performance.

It would have been obvious to one of ordinary skill in the art to modify the reference of Hasegawa et al with the teaching of Veletovac for utility.

Allowable Subject Matter

Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Kruer whose telephone number is 571.272.5913. The examiner can normally be reached on M-F.

Art Unit: 3654

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571.272.6856. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free).

/Stefan Kruer/

Examiner, Art Unit 3654

16 March 2008

/Peter M. Cuomo/

Supervisory Patent Examiner, Art Unit 3654